

Remarks

Reconsideration of the application as amended is respectfully requested.

The pending claims are Claims 1-43.

Claims 1-27 and 38-43 have been withdrawn from consideration pursuant to a restriction requirement and have been cancelled herewith without prejudice of the Applicant's right to file divisional applications directed thereto.

The claims under consideration are Claims 28-37. The claims have been amended so as to place the application in condition for allowance.

Claim 37 has been cancelled in view of subject matter claimed in Claim 29 of allowed Application No. 09/931,683.

Claims 28 and 29 have been amended as to claim terminology to actually clearly specify that formula (XIII) represents the structure of the carboxylic acid, not the structure of a reactive functional derivative thereof, in step (a) of Claim 28 and step (c) of Claim 29, respectively, as is evident to one skilled in the art, particularly in view of the specification on Page 22, first paragraph.

Similarly, claim terminology has been amended in step (b) of Claim 28 and step (d) of Claim 29 merely for purposes of clarification.

It is respectfully submitted that no issue of new matter or of limitation to the claims is involved.

Claim 36 has been amended to delete subject matter not within the scope of Claim 29. The error is sincerely regretted.

Reconsideration of the rejection of Claim 32 under 35 U.S.C. §112, second paragraph, for lack of antecedent basis is respectfully requested.

Claim 32 is dependent from Claim 29. In view of instant amended Claim 29, it is respectfully submitted that Claim 32 clearly does not lack antecedent basis in Claim 29. The Markush group of Claim 32 is a list of reactive functional derivatives of acids of formula (XIII) in step (c) of Claim 29. Indeed, formula (XIII) does not represent the structure of said reactive functional derivatives of Claim 32, nor is it supposed to. Formula (XIII) represents, as is evident, the structure of the corresponding carboxylic acids from which reactive functional derivatives, e.g., an acid chloride, are derived.

In view thereof, it is respectfully submitted that the rejection of Claim 32 for lack of antecedent basis should be withdrawn.

Reconsideration of the provisional rejection of Claims 28-37 for obviousness double-patenting over Application No. 09/931,683 (issue fee paid) is respectfully requested.

A terminal disclaimer over said application is filed herewith, thus said rejection is considered to have been overcome.

Reconsideration of the rejection of Claims 36 and 37 (instant Claim 36, Claim 37 having been cancelled) for obviousness double-patenting over Claims 9 and 24 of Application No. 09/522,219 is respectfully requested.

Instant Claim 36 is strictly a chemical process claim only directed to a method of preparation of the named compounds and does not claim the compounds as products of the process.

Therefore the Examiner's reason for the obviousness double-patenting rejection, namely that Claim 37 is "essentially" a product by process claim is respectfully submitted to be inappropriate.

Claim 9 of Application No. 09/533,219 is strictly a compound claim, and Claim 24 is strictly a method of use claim using such a compound for the treatment of cardiovascular conditions.

Therefore, it is respectfully submitted that no issue of obviousness double-patenting is involved and that the rejection for obviousness double-patenting over Application No. 09/533,219 should be withdrawn.

It is respectfully submitted that the instant claims are in condition for allowance and such is earnestly solicited.

Respectfully submitted,

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Encl.: Terminal Disclaimer

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